

## **REMARKS**

After entry of this Amendment, the pending claims are claims 3, 7-9, 11, 16, 24 and 25. The Office Action dated January 27, 2009 has been carefully considered. Claims 24 and 25 have been amended. Support for the amendments to claims 24 and 25 can be found throughout the Specification and Figures and specifically in paragraph Nos. 0017, 0027-0031 and Figs. 1-5. Accordingly, no new matter has been added. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action, dated April 30, 2008 the Examiner withdrew his indication of allowability and:

rejected claims 3, 16, 24 and 25 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,955,677 to Dahners (“Dahners”) in view of U.S. Patent No. 5,269,784 to Mast (“Mast”);

rejected claims 7-9 under 35 U.S.C. § 103(a) as being unpatentable over Dahners in view of Mast and further in view of U.S. Patent No. 6,026,881 to Frigg et al. (“Frigg”); and

rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Dahners in view of Mast and further in view of U.S. Patent No. 5,108,399 to Eitenmuller et al. (“Eitenmuller”).

## **EXAMINER’S INTERVIEW**

Applicants thank the Examiner for the courtesies extended during the telephonic interview conducted on April 21, 2009 and follow-up discussion on April 29, 2009 (the “Interviews”) in which the Examiner and Applicants’ representatives discussed proposed amendments to the claims and

the outstanding Office Action. Applicants respectfully proffer that the amendments made herein conform with the discussions in the Interviews and place the application in condition for allowance.

**CLAIM 24**

Independent claim 24 stands rejected under 35 U.S.C. § 103 as being unpatentable over Dahners in view of Mast. Applicants respectfully transverse this rejection with respect to claim 24 as amended.

Dahners generally discloses a fastening apparatus that enables a fastener 10 to be affixed to a fastener receiving member 60 at a variable angle. The fastening receiving member 60 includes one or more apertures (A) through which corresponding fasteners can be inserted. Each aperture includes a contact region 85 formed on an inside surface 81 which defines the aperture.

Mast generally discloses a screw nut 1 designed for the rigid fixation of a bone screw 15 in a bone plate 20 having plate holes 21. The screw nut 1 may be made of different parts so that the lower section 5 rotates around the axis 2 with respect to the upper section 6.

Applicants respectfully submit that Dahners, even when taken in combination with Mast, does not disclose each and every element of claim 24. As amended, claim 24 recites: An implant for bone fixation comprising a body having an upper surface and a bottom surface wherein the body is formed of a plastic material, a first opening extending from the upper surface through to the bottom surface, a second opening extending from the upper surface through to the bottom surface each of which opening is configured to receive a bone fastener; a passage located between the first opening and second opening the passage extending through the upper surface; a first peripheral perimeter formed of titanium

material; and a second peripheral perimeter formed of titanium material; wherein the first and second peripheral perimeters are joined together as a single piece and rigidly inserted within the first and second openings and the passage. (Emphasis added).

Applicants respectfully submit that there is no disclosure teaching or suggestion in Dahners or Mast of an implant for bone fixation having a body formed of a plastic material that has two openings, each of which is configured to receive a bone fastener and a passage located between the two openings where the implant further comprises first and second peripheral perimeters formed of a titanium material that are joined together and rigidly inserted within the openings and the passage.

Specifically, at most, Dahners teaches a fastening receiving member with multiple openings which have inner surfaces that form contact regions to allow the insertion of the fastener at a specific angle. Dahners does not teach a passage located between two openings or a first and second peripheral perimeter that are joined together as a single piece and rigidly inserted within the openings and the passage.

Applicants respectfully submit that even if the combination of Dahners and Mast was proper, there is no disclosure, teaching or suggestion in Dahners or Mast of an implant for bone fixation having a body formed of a plastic material with two openings and a passage located between the two openings which also comprises first and second peripheral perimeters that are joined together and rigidly inserted within the openings and the passage. According to the Office Action, Mast was introduced as part of the rejection to teach a second peripheral perimeter joined rigidly with a first peripheral perimeter and inserted into an opening. At most Mast teaches the use of a screw nut that is made of two separate parts that rotate with respect to each other. Even if this can be viewed as a first and second peripheral

joined together and rigidly inserted into an opening (as the Office Action argues), Mast clearly does not teach the use of a passage between two openings, or joining a first and second peripheral perimeter together as a single piece which is rigidly inserted within the openings and the passage.

Thus it is respectfully submitted that claim 24 is allowable over the cited art of record.

Applicants respectfully request withdrawal of this rejection and allowance of claim 24.

Furthermore, as claims 3, 7-9, 11 and 16 each depend from independent claim 24, it is submitted that these claims are equally allowable. Applicants respectfully request withdrawal of these rejections and allowance of claims 3, 7-9, 11 and 16.

#### **CLAIM 25**

Independent claim 25 also stands rejected under 35 U.S.C. § 103 as being unpatentable over Dahners in view of Mast. Applicants similarly transverse this rejection with respect to claim 25 as amended.

Applicants respectfully submit that Dahners even when taken in combination with Mast does not disclose each and every element of claim 25. As amended, claim 25 recites: an implant for bone fixation comprising a body having an upper surface and a bottom surface wherein the body is formed of a plastic material; a first opening extending from the upper surface through to the bottom surface, a second opening extending from the upper surface through to the bottom surface each of which opening is configured to receive a bone fastener; a passage located between the first opening and second opening the passage extending through the upper surface; a first peripheral perimeter formed of titanium material and containing a sleeve shaped extension; and a second peripheral perimeter formed of titanium

material; wherein the first and second peripheral perimeters are joined together and rigidly inserted within the first and second openings and the passage and wherein the sleeve shaped extension is located above the upper surface of the body and acts as a target aid for the respective bone fastener. (Emphasis added).

Applicants respectfully submit that there is no disclosure teaching or suggestion in Dahners or Mast of an implant for bone fixation having a body formed of a plastic material which has two openings, each of which is configured to receive a bone fastener, a passage located between the two openings where the implant also comprises first and second peripheral perimeters formed of a titanium material that are joined together and rigidly inserted within the openings and the first peripheral perimeter contains a sleeve shaped extension the sleeve shaped extension being located above the upper surface of the body and acting as a target aid for the respective bone fastener.

Specifically, at most, Dahners teaches a fastening receiving member with multiple openings which have inner surfaces that form contact regions to allow the insertion of the fastener at a specific angle. Dahners does not teach a passage located between two openings or a first and second peripheral perimeter that are joined together as a single piece and rigidly inserted within the openings and the passage.

Applicants respectfully submit that even if the combination of Dahners and Mast was proper, there is no disclosure, teaching or suggestion in Dahners or Mast of an implant for bone fixation having a body formed of a plastic material with two openings, a passage located between the two openings, and first and second peripheral perimeters that are joined together and rigidly inserted within the openings and the passage and the first peripheral perimeter containing a sleeve shaped extension

wherein the sleeve shaped extension is located above the upper surface of the body and acts as a target aid for the bone fastener. According to the Office Action, Mast was included as part of the rejection to teach a second peripheral perimeter joined rigidly with a first peripheral perimeter and inserted into an opening. At most Mast teaches the use of a screw nut that is made of two separate parts that rotate with respect to each other. Even if this screw nut can somehow be viewed as a first and second peripheral joined together and rigidly inserted into an opening, Mast clearly does not teach the use of a passage between two openings, or joining a first and second peripheral perimeter together as a single piece which is rigidly inserted within the openings and the passage.

Thus it is respectfully submitted that claim 25 is allowable over the cited art of record.

Applicants respectfully request withdrawal of this rejection and allowance of claim 25.

### **CONCLUSION**

In view of the forgoing Amendment and remarks, Applicant respectfully submits that the present application, including pending claims 3, 7-9, 11, 16, 24 and 25 are in condition for allowance and such action is respectfully requested.

Aside for the fee for extension of time, no additional fee is believed due for this submission. If, however, the Commissioner determines otherwise, the Commissioner is authorized to charge any fees which may now or hereafter be due in this application to Deposit Account No. 19-4709.

In the event that there are any questions, or should additional information be required, please contact Applicant's attorney at the number listed below.

Respectfully submitted,

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